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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/374,077	08/12/99	O'CONNOR	R 43638-00030

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JEFFREY A. DIVNEY ESQ
HOLME ROBERTS & OWEN LLP
1700 LINCOLN STREET SUITE 4100
DENVER CO 80203

EXAMINER

WHITE, R

ART UNIT

PAPER NUMBER

3624

2

DATE MAILED:

12/08/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/374,077

Applicant(s)
O'Connor et al

Examiner
Rodney B. White

Group Art Unit
3624



☒ Responsive to communication(s) filed on Aug 12, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-28 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-15, 17, and 24-26 is/are rejected.

☒ Claim(s) 16, 18-23, 27, and 28 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 are and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 5, the Applicant claims "first end portion", which appears to be inferentially claimed. It has not been defined that the "back member" has a "first end portion". Perhaps --a-- should be inserted in front of "first end portion"

in claim 7, line 2, "at at" should probably be --at--.

In claim 9, lines 1-2, the Applicant appears to inferentially claim "one of front and back walls" of both the "first wing member" and the "back member" since it has not been defined that either includes "front and back walls". Perhaps the phrase should be changed to read --one of a front and a back wall-- or --one of a front or a back wall--.

In claim 25, it is not understood what the Applicant means "vertically rotatable". First of all it appears the first and second wing members are "horizontally rotatable relative to said back

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member” on a substantially vertical axis, as claimed in Claim 24 and shown on Figures 3A-3B and 5. However, “vertically rotatable” would appear to occur at or about a horizontal axis, which is not shown in any of the drawings. This supposed feature is not understood or shown and, if it is not shown in any of the drawings, it should be canceled from the claims. If the Applicant intends to claim the same thing as claimed in Claim 24, then Claim 25 will be redundant and should be cancelled. Or is Applicant trying to claim that the wings are rotatable on a vertical axis?

The aforementioned problems render the claims vague and indefinite. Clarification and/or correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 5-10, 12, and 24-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Conradt (US #2,464,435).

Conradt teaches a headrest for supporting a person's head, the headrest comprising at first and second wing members formed of wire frame 20 (Fig. 3 and column 1, lines 37-38) adapted to abuttingly engage at least a first side portion of the head, a back member (Figures 1-2) adapted to

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abuttingly engage at least a back portion of the head, and first and second hinge member formed by loop 22 of frame 20 and bolt 14 for interconnecting the first and second wing members to a first end portion of the back member forming first and second hinge axes, respectively, the first hinge axis being noncoplanar with the second hinge axis, wherein the first and second wing members are pivotable relative to the back member, an interconnecting member for releasably interconnecting the back member to a seat adapted to support a person, the interconnecting member for releasably interconnecting the back member to a seat is a first strap for interconnecting the back member to a head support portion of a seat adapted to support a person, at least a first cushion member 8 for covering at least one of the back member and the first wing member, and the first hinge including a pivot adjustment member for releasably maintaining the first wing member at least a first of a plurality of pivot positions relative to the back member, the first wing member being pivotable independent of the second wing member (column 2, lines 9-12), wherein one of front and back walls of at least the first wing member is abuttingly engageable with one of the front and back walls of the back member, a wing member is pivotable relative to the back member on vertical axes between first and second stop pivot positions, wherein at the first stop pivot position a first surface of the first wing member is angled 70 degrees or less relative to the back member.

5. Claims 1-2, 5-6, 8-10, 12, and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Blanchard (US #3,283,344).

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Blanchard teaches a headrest for supporting a person's head, the headrest comprising at first and second wing members 46 adapted to abuttingly engage at least a first side portion of the head, a back member 12 adapted to abuttingly engage at least a back portion of the head, and first and second hinge member 48 for interconnecting the first and second wing members to a first end portion of the back member forming first and second hinge axes, respectively, the first hinge axis being noncoplanar with the second hinge axis, wherein the first and second wing members are pivotable relative to the back member, at least a first cushion member 68 and 74 for covering at least one of the back member and the first wing member, and the first hinge including a pivot adjustment member for releasably maintaining the first wing member at least a first of a plurality of pivot positions relative to the back member, the first wing member being pivotable independent of the second wing member (column 2, lines 9-12), wherein one of front and back walls of at least the first wing member is abuttingly engageable with one of the front and back walls of the back member, a wing member is pivotable relative to the back member between first and second stop pivot positions on a vertical axes, wherein at the first stop pivot position a first surface of the first wing member is angled 80 degrees or less relative to the back member, the padding comprises a neck roll portion 74 for abuttingly engaging the back portion of the person's head

6. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Nordskog (US #4,440,443)

Nordskog teaches a headrest for supporting a person's head, the headrest comprising at least a first wing member 32,34 adapted to abuttingly engage at least a first side portion of the

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head, a back member 30 adapted to abuttingly engage at least a back portion of the head, and at least a first hinge at 50 for interconnecting the first wing member to a first end portion of the back member, wherein the first wing member is pivotable relative to the back member, an interconnecting member 54,56 for releasably interconnecting the back member to a seat adapted to support a person.

7. Claims 13-15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Chow (US #5,544,378).

Chow teaches a headrest for supporting a person's head, the headrest comprising first and second wing members wing members 12,14 adapted to abuttingly engage at least a first side portion of the head, a back member 16 adapted to abuttingly engage at least a back portion of the head, and at least a first hinge at seals 32 for interconnecting the first wing member to a first end portion of the back member, wherein the first wing member is pivotable relative to the back member, an interconnecting member 40 for releasably interconnecting the back member to a seat adapted to support a person, the first interconnecting member comprising a strap having first and second end portions, the first and second end portions being interconnectable to one of an intermediate portion extending between the first and second end portions, each other and the seat headrest to releasably secure the portable headrest to the seat, the intermediate portion is receivable within a first channel 42, the first channel being one of integrally formed with and interconnected to the back member.

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Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conradt in view of Lohr (US #3,537,750).

Conradt teaches the structure substantially as claimed the only difference being that he does not teach at least a first stem interconnectable to the back member and the stem adapted to be releasably engaged ^{to} a seat adapted to support the person. However, Lohr teaches alternative conventional stems 26 that can replace bolts 14 in the Conradt reference and still provide a hinged connection and selective angular adjustment for the wing members and provide releasable engagement to a seat, and provide first and second vertical adjustment portions for releasably engaging a first vertical stop member of the seat, wherein the back member is vertically adjustable relative to the seat at least first and second vertical positions (Fig. 3). It would have been obvious and well within the level of ordinary skill in the art to modify the headrest, as taught by Conradt, to include at least a first stem, as taught by Lohr, since the stem would provide the headrest with detachable capabilities to a vehicle seat and to replace the existing vehicle headrest if needed for greater comfort and better rest when riding on long trips in which a passenger might take a nap.

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10. Claim 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

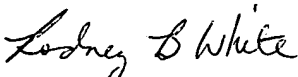
11. Claims 16, 18-23, and 27-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

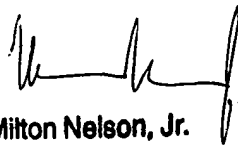
12. The prior art made of record and not relied upon, such as Nowak, Wiseman, Hutchinson et al, Howard, Carwin, Thoma, Knightlinger, Roginski, Rising, Warlick et al, Harnish, Wang, Cassese et al, Morecroft, and Sweeney et al, is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner White whose telephone number is (703) 308-2276.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo, can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Rodney B. White,
Patent examiner
Art Unit 3624
December 5, 1999


Milton Nelson, Jr.
Primary Examiner